# A GUIDE TO UNDERSTANDING THE IMPERVIOUS SURFACE DRAINAGE FEE ORDINANCE

# CONTRA COSTA COUNTY FLOOD CONTROL

**AND** 

WATER CONSERVATION DISTRICT

AUGUST 2000 Revised November 2003

#### UNDERSTANDING THE DRAINAGE FEE ORDINANCE

The Board of Supervisors, as the governing body of the Contra Costa County Flood Control and Water Conservation District, establishes drainage areas and drainage fee ordinances for watersheds having inadequate drainage. When a property owner develops a parcel or increases the runoff by adding to the impervious surface area on his property, he is obligated to pay the fee to the drainage area fund for this area. These funds are then used to construct necessary drainage improvements.

This is intended to explain the ordinance step by step and give examples of how the ordinance is applied to various situations. The fee amounts used are from the drainage fee Ordinance No. 85-52, Drainage Area 56 found in Appendix A.

Section I. Drainage Plan. This map shows the boundaries of the drainage area and the proposed improvements to the drainage system. The most current version of each drainage plan should be found on the hanging racks in Flood Control.

**Section II. Findings.** This section states the justification and reasoning of the Board of Supervisors for forming the drainage area and charging drainage fees.

Section III. Exemptions. There are three cases where a drainage fee will not be required: 1) for replacement of a building destroyed by fire, flood, etc. or by a building of the same size; 2) where no net additional impervious surface results or where the addition to the impervious surface area is less than 100 square feet (this is to avoid charging fees that are not economically practical to collect); 3) where all or a portion of a lot is conveyed to an abutting property owner or a public agency and does not create a building lot or site.

#### **EXAMPLES**

- A. An individual wishes to replace a 5,000 sq. ft. building that was destroyed by fire with a building covering 7,000 sq. ft.
  - 1. No drainage fee has ever been paid:

Even though the owner had not paid a fee for the original 5,000 sq. ft. building, 5,000 sq. ft. of the new building is considered exempt. The owner must pay a fee on the additional 2,000 sq. ft.

```
7,000 - 5,000 = 2,000 sq. ft. of new impervious surface 2,000 \times 3.34/sq.ft. = $680.00
```

2. The drainage fee was already fully paid on the property:

As long as the new building is consistent with the previous land use on the site, no additional fee may be charged (under Section X, Limitations).

B. An individual wishes to construct a patio cover over an existing concrete patio.

No fee is due because no additional impervious surface is created. However, if the patio cover were constructed over a redwood deck or other permeable surface, a fee would be due on the entire cover if it exceeds 100 sq. ft. in surface area.

C. A property owner wishes to purchase a strip of land 25' wide and 150' long from an adjacent neighbor.

There will be no fees due on this subdivision because the acquisition of the land does not, by itself, create a buildable lot. If the owner later applies for a building permit or land division, the additional land will be included in the calculations for drainage fees due.

Section IV. Fee Deferment. If a lot is larger than two acres and the owner wants to develop a portion of the property, the owner may defer payment of the drainage fee on the portion of the lot greater than two acres that in not a part of the actual development. The fee must be paid on the developed portion or two acres, whichever is larger, and in return for not paying the fee on the undeveloped portion of the land, the owner gives up development rights on that portion by executing a Grant Deed of Development Rights to the Board of Supervisors (as the governing body of C.C.C.F.C.&W.C.D.), until the fee is paid.

#### **EXAMPLES**

A. An individual wishes to construct an office building on a 6 acre parcel. The proposed building, landscaping and parking area results in 1.5 acres being used. The owner pays the drainage fee on 2 acres and executes a Grant Deed of Development Rights to the Board of Supervisors for the remaining 4 acres. A year later the owner wants to add a second building site. Both buildings and related improvements now occupy 3 acres of the site.

In exchange for the Board of Supervisors' relinquishment of the development rights on the property, the owner is obligated to pay fees on the additional acre used and execute a new agreement granting development rights for the remaining 3 acres. This process of piece-meal development can continue until the entire site is developed and the total drainage fee has been paid. Or, at the owner's option, the entire fee can be paid off at any time in order for the Board to relinquish the development rights on the parcel.

B. An individual has a 40 acre parcel, zoned commercial that the person proposes to subdivide into 10 parcels of 4 acres each. A Final Map is submitted for the first unit of development that consists of 5 parcels of 4 acres each. The owner wants to

defer as much of the drainage fee as possible. Note that the final map still has to show the residual 20 acres as one more lot.

The fee must be paid on 2 acres of each lot:  $2 \times 6 = 12$  acres Total fee:  $12 \times 15,020$ /acre = \$180,240.00

The owner must execute an agreement with the Board of Supervisors for each parcel, granting development rights on the remaining portions of the lots. As the new lots are developed a process similar to Example A will ensure using the subdivision fee schedule to calculate additional fees (because the original deferment resulted from subdivision activity.)

**Section V. Building Permits.** Except for situations described in Exemptions and Fee Deferment, any action requiring a building permit will require that the drainage fees be paid. The fee charged under this section should not exceed the fee required under the building permit heading in Section VII.

### **EXAMPLES**

A. A homeowner wishes to add a tennis court (an average tennis court is approximately 4,500 sq. ft.) and a 300 sq. ft. patio area to his lot. The drainage fee has not been paid on this property.

```
300 sq. ft. x $0.34 = $102.00
4,500 sq. ft. x $0.34 = $1,530.00
Total fee: $102.00 + $1,530.00 = $1,632.00
```

B. The above situation, but the drainage fee had been paid when the lot was originally subdivided.

```
4,500 sq. ft. -400 sq. ft. =4,100 sq. ft. (Under Section VII, 400 sq. ft. are exempt) Total Fee: 4,100 sq. ft. x $0.34 = $1,394.00
```

The patio is considered incidental to the home, and, as such, included in the original subdivision fee.

C. An individual wants to construct a pool and a patio of 95 sq. ft. behind his/her home. The drainage fee has not been paid on the property.

```
Pool = $290.00
95 sq. ft. x $0.34 = $32.30
Total fee: $290 + $32.30 = $322.30
```

The reason a homeowner in this case pays a fee on a patio area less than 100 sq.ft. is that the combination with a pool is far greater than 100 sq. ft. The 100 sq. ft.

limit is to avoid collecting fees that do not pay for their own processing. If the fee had already been paid on the property at the time of development there would not be any additional fees due because pools, like patios, are considered incidental to single family residences.

D. A homeowner intends to tear up a large patio of 1,200 sq.ft. and install an 800 sq. ft. pool and a patio of 24' x 10'.

Fee = \$0.00

**Section VI. Subdivision.** The fees for subdivisions will be calculated by the proposed density and type of development using the fee schedule in Section VII.

#### **EXAMPLES**

A. A financial group wants to create a "planned development" on a 180 acre parcel. 10 acres will be set aside for commercial use and 20 acres will be used for offices that yield 70% impervious surface. 100 acres are planned for single family homes (200 units on 10,500 sq. ft. lots, and 200 units on 9,600 sq. ft. lots), 35 acres of condominium (240 units), and 15 acres will be open space.

Single family homes:

10,500 sq. ft./unit = \$1,915/unit \$1,915/unit x 200 = \$383,000 9,600 sq. ft./unit = \$1,735/unit \$1,735/unit x 200 = \$347,000

Multi family homes: 35 ac/240 units = 6,352.5 sq. ft./unit Fee = \$1,120/unit \$1,120/ unit x 240 = \$268,000

Commercial:  $$15,020/ac \times 10 ac = $150,200.00$ 

Light Office:  $$11,300/ac \times 20 ac = $226,000$ 

TOTAL: \$1,374,200.00

B. A developer subdivides a 20 acre parcel into 65 residential units of 12,500 sq. ft. and pays all drainage fees. She later rezones 10 residential lots in order to resubdivide to a commercial district, which occupied 3 acres.

Fees paid on residential 10 units: 12,500 sq.ft./unit = \$1,915/unit 10 units x \$1,915 = \$19,150.00

Commercial 3 acres: \$15,020/acre x 3 = \$45,060

Drainage fee due: \$45,060 - \$19,150 = \$25,910

Section VII. Fee Schedule. There are two sections to the fee schedule: Building Permit and Subdivision. The Building Permit schedule applies when an existing lot is developed or when the use of a lot changes. The Subdivision schedule applies to any division of land that results in new lots. The reason that some of the fees are different for the Subdivision and Building Permit schedules is that the rates for subdivisions are based on the lot size, and include proposed streets and frontage improvements. The rates for building permits are based on the actual buildable lot, excluding existing streets. Credits for fees already paid must be consistent within one schedule or the other. If there is an application for a building permit, the credit for fees previously paid is calculated under the building permit schedule. If the applicant is resubdividing some property the credit for fees previously paid would be based on the subdivision schedule. (Always consult the records in the Accounting Division before giving credit.)

#### **EXAMPLES**

## Commercial, Industrial

A. An individual applies for a building permit to install a lumberyard on 5 acres of land in a light industrial zone.

13,980/acre x 5ac. = 69,900

B. The owner of a 7 acre lot zoned Neighborhood Business wishes to construct improvements on the now vacant lot. There will be 3 acres of building, 2 acres of parking and driveways, 1 acre of landscaping, and 1 acre left vacant for future additions.

13,980/acre x 7ac. = 97,860

The owner could defer paying the drainage fee on the vacant 1 acre, but must pay on the landscaped area, which is reflected in the fee schedule.

#### Offices

The office category is divided into Light, Medium, and Downtown office. Office Light applies to sites having up to 75% of the area being developed covered by impervious surface. Office Medium applies to office sites having from 75.1%- 85% of the area covered in impervious surface, and Downtown Office is considered to be the same as Commercial/Industrial, having 85.1%-100% impervious surface.

A. The owner of a 7 acre parcel decides to build 2 acres of building, 1.2 acres of parking and driveways, 0.8 acres of landscaping, and defer paying the fees on the remaining 3 acres of land, which will be left vacant for future development.

3.2ac./4ac. = 80% impervious surface

The Office Medium rate is used because the impervious surface being created is between 75.1%-85% of the area being developed.

Fees paid in full:  $$11,980/ac. \times 7ac. = $83,860$ 

If a grant deed of development rights is executed for the remaining 3 acres, then the fee is:

11,980/ac. x 4ac. = 47,920

#### Multi-Family Residential

This section includes mobile home parks and townhouses and condominiums with less than 4,000 sq. ft. per individual lot. The multi-family residential lots have higher rates under the Building permit schedule than single family residential lots of the same size because the on-site street and parking in multi-family land use generates larger amounts of impervious surface areas per unit. Townhouse and condominium lots smaller than 4,000 sq.ft. per unit have very similar land uses and so are categorized as multi-family.

A. An individual decides to put one duplex on each of three ¼ acre parcels and applies for the building permit. The parcels were subdivided as single family residences but are now considered multi-family residential.

 $\frac{1}{4}$  acre per 2 units = 5445 sq. ft./unit Fees for duplexes: \$995/unit x 6 = \$5,970

Fees paid at time of original subdivision: 1/4 acre parcel = 10,890 sq. ft. \$1,915/parcel x 3 = \$5,745

Additional drainage fees due: \$5,970 - \$5,745 = \$225

B. The parcels in the preceding example are developed as 6 individual single family lots of 5,000 sq. ft. each.

Fees for lots: \$1,525/parcel x 6 = \$9,150 Fees paid for original subdividing = \$5,745 Additional drainage fees due = \$9,150 - \$5,745 = \$3,405

In this case, the new lots constitute a resubdivision so the new fee is calculated under the subdivision schedule. The difference from the fee due in Example A is that as a subdivision, single family lots develop more impervious surface than multi-family lots.

C. A developer has a parcel of 25 acres upon which he intends to create a mobile home park. 12 acres will have 115 lots, 12 acres will have 165 lots, and one acre will be set aside for clubhouse, pool, tennis courts, patios, and lawns. This type of development is considered the same as a cluster-type; therefore, the fee is calculated by average density per acre.

25 acres/280 lots = 3,899 sq. ft./unit = \$748/unit

Clubhouse is included in fees for mobile home parks. AND ATT BUILDING ( GAILDING PERMIT)

Total fees due: \$748/unit x 280 = \$209,440.00

D. A year later the developer wishes to add three tennis courts to the clubhouse area in Example C above. (Each tennis court is 4,500 sq. ft.)

Fee = \$0.00

The drainage fees have been completely paid on this parcel. Tennis courts are considered incidental to this type of development and are considered exceptional only for single family residential.

## Single Family Residential

Single family residential parcels that have under 4,000 sq.ft. are charged at the same rate as those having 4,000-4,999 sq. ft. It is felt that these parcels generate about the same amount of impervious surface as the larger lots.

When calculating fees for a residential development, each remainder parcel that is not specifically exempt under Section III is charged a fee for one residential parcel using the Section VII fee schedule. When those parcels develop, credit will be given for the amount already paid. For this reason, when the remainder parcel is subdivided or otherwise developed, it is important to check the file of the parent subdivision for possible fee credits.

#### **EXAMPLES**

A. A 15 acre parcel is being subdivided into 75 lots each 5,000-5,999 sq. ft. The subdivision also includes Parcel A that covers 5 acres and is being held for future development.

```
75 lots x $1,525 = $114,375
1 lot x $3,365 = $3,365
Fee = $114,375 + $3,365 = $118,010.00
```

B. An individual wishes to split a one acre parcel into three lots for single family residential use.

```
3 lots of 14,000 sq.ft./lot
Fees = $2,205/lot
Total fees due: $2,205/lot x 3 = $6,615.00
```

- C. A contractor applies for building permits on three ½ acre lots for which the drainage fees were paid when the land was subdivided. He wants to construct: 1) a single family residence; 2) a residence with a pool and a 20' x 40' barn; and 3) a residence with a tennis court and a 20' x 25' patio. (An average tennis court is 4,500 sq. ft.)
  - 1) Fee = \$0.00
  - 2) 800 sq. ft. -400 sq. ft. (exemption) = 400 sq. ft. x \$.34 = \$136.00
  - 3)  $4.500 \text{ sq. ft.} 400 \text{ sq. ft.} = 4100 \text{ sq. ft.} \times \$0.34 = \$1.394.00$

There is no charge for the patio.

In the above examples, the pool and patio are considered incidental improvements already included in the original fee calculation.

D. A homeowner is adding a second unit of 1,360 sq. ft. on a 1 acre lot. Fees had previously been paid in the amount of \$3,635, the subdivision rate for a parcel of 40,000+ sq. ft.

```
43,560 sq. ft./ 2 = 21,780 sq.ft.
2 x $1,760 (the Building Permit rate for 20,000 sq. ft. lots) =$3,520.00
Fee = $3,520 - $2,620 (Building Permit rate for 40,000+ sq. ft. lot) = $900.00
```

E. A homeowner is adding a second unit on a l acre lot. No fees have been paid.

43,560 sq. ft./2 = 21,780 sq.ft. Fee = \$1,760 (the Building Permit rate for 20,000 sq. ft. lots) Credit is given for the existing house on the second 20,000+ sq. ft. lot.

## Agricultural

A parcel is treated as agricultural only if the lot has a minimum of 2.5 acres and is being <u>used</u> for agricultural purposes. If a parcel is <u>zoned</u> agricultural, but is not being used that way, fees are calculated based on its current usage.

#### **EXAMPLES**

A. A rancher owning a 40 acre agricultural lot with two residences on it wants to add a pool in his backyard.

$$Fee = $0.00$$

10% of an agricultural parcel of 40 acres = 4 acres. If less than 4 acres of this lot is impervious, there is no fee.

B. A developer wishes to subdivide 62 acres of agricultural land into 10 "ranchettes" of 5 acre minimum parcels.

These parcels are considered residential larger than 40,000 sq. ft.

Fee = 
$$\$3,635 \times 10 = \$36,350.00$$

C. An individual purchases one of these lots (5.5 acres) and applies for a building permit to build a house covering 8,000 sq. ft. of land.

If the fees were paid at the time of subdivision there would not be an additional charge.

If the fees had not been paid previously, the charge would be for a building permit for a single family lot larger than 40,000 sq. ft., which is \$3,635.00.

D. Two years later the same individual adds a 25' x 60' barn.

1,500 sq. ft. 
$$-400$$
 sq. ft.  $= 1,100$  sq. ft. (Under Section VII, 400 sq. ft. are exempt) 1,100 sq. ft.  $x $0.34 = $374.00$ 

E. A 20 acre parcel zoned agricultural is developed for use as a training center for racehorses. There are many buildings and the grounds are extensively paved around the buildings. In all there are 3.5 acres of impervious surface.

Since this is not an agricultural use, the fee would be based on the square feet of impervious surface.

3.5acres = 152,460sq. ft. 152,460 x \$0.34 = \$51,836.40

## Section IX. Credit Drainage fees previously paid shall be credited as follows:

- A. Where drainage fees have been paid under a former drainage fee ordinance based on acreage, fees shall not be required under Section VII for any part of the total area for which the fee was paid, except in the case of a resubdivision.
- B. Where drainage fees have been paid under a drainage ordinance based on impervious surface, fees shall not be required under Section VII for the total impervious surface area for which the fee was paid. However, fees shall be payable under Section VII for any additional impervious surface area.
- C. Where drainage fees have been paid other than pursuant to an adopted drainage fee ordinance, the dollar amount of the fee paid for the development site in question shall be credited against the fees payable under Section VII.

#### Miscellaneous Notes

- 1. When calculating fees for a subdivision located in more than one drainage area, the following rules are followed:
  - a. Fees are paid to the drainage area in which the lot(s) is located, regardless of where it drains.
  - b. In a case where the drainage area boundary does not match the actual ridgeline, a lot must pay to the drainage area into which it naturally drains as long as it has not been graded to drain otherwise.
- 2. All fees should be paid prior to filing the final map or parcel map. If a map gets filed without fees being paid, Building Inspection should be notified to hold all permits until the fees are paid.
- 3. Drainage fees should be collected at the fee structure in effect when the fees are <u>paid</u>. This means if a fee calculation has been done, but the fee has not yet been paid when the fee structure changes, the new fee structure is used to recalculate the amount due.

RL:PRD
G:\GrpData\FldCt\\rlevin\DRAINAGE FEE ORDINANCE Guide.doc
Aug. 2000

		: *
,		